

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLARENCE BROOKS,

Defendant.

CASE NO. 71-46067

HON. LAWRENCE P. ZATKOFF

OPINION AND ORDER

AT A SESSION of said Court, held in the
United States Courthouse, in the City of Port Huron,
State of Michigan, on January 10, 2011

PRESENT: THE HONORABLE LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

I. INTRODUCTION

This matter is before the Court on Defendant's Motion to Expunge Conviction (Docket #1). The Government has filed a response, and the period for filing a reply has expired. The facts and legal arguments are adequately set forth in the documents submitted by the parties. Therefore, finding that the determination of the issues will not be aided by oral argument, and pursuant to E.D. Mich. Local R. 7.1(f)(2), this Court ORDERS that Defendant's Motion to Expunge Conviction be decided upon the brief submitted, without this Court entertaining oral arguments. For the reasons that follow, Defendant's Motion to Expunge Conviction is DENIED.

II. BACKGROUND

In 1971, Defendant was charged in a multi-count Indictment for the armed robbery of a bank. In August 1971, he pled guilty to Count 1 (Bank Robbery). The remaining two counts were dismissed. Defendant was sentenced to 18 years imprisonment and was paroled after five years for good behavior.

Defendant maintains that he has not re-offended since then, has been out of incarceration and a law abiding citizen for more than 30 years, and that it has been 40 years since he committed the crime. Defendant asks this Court to expunge his record because he has been a law abiding citizen since being paroled and because he needs to be able to obtain a concealed weapons permit so that he can protect his home and family, as well as himself, from violent criminals.

III. OPINION

In a recent case, the Sixth Circuit Court of Appeals held that a district court does not have jurisdiction to consider a defendant's expungement motion. *See United States v. Lucido*, 612 F.3d 871 (6th Cir. 2010). As such, this Court lacks the authority to review this case on the merits and must deny Defendant's Motion to Expunge Conviction.

IV. CONCLUSION

Accordingly, and for the reasons set forth above, Defendant's Motion to Expunge Conviction (Docket #1) is DENIED.

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: January 10, 2011

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on January 10, 2011.

S/Marie E. Verlinde
Case Manager
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